

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

2005 JAN 21 P 10:36 Docket No:04CV12721RGS

U.S. DISTRICT COURT
DISTRICT OF MASS

RANDOLPH E. GREEN,
Plaintiff,

v.

THOMAS J. MAY, PRESIDENT BOSTON
EDISON COMPANY DBA NSTAR
ELECTRIC CORPORATION OF
MASSACHUSETTS
Defendant,

**DEFENDANT'S AFFIDAVIT IN SUPPORT OF DEFENDANT'S MOTION TO
DISMISS**

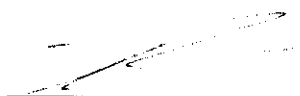
I, Thomas M. Palmer, Attorney for the Defendant, on oath depose and say:

1. The Plaintiff is a resident of Roxbury, Massachusetts. The Defendant, is an individual residing in Westwood, Massachusetts.
2. Boston Edison Company dba Nstar Electric is not a named party in this lawsuit. The Plaintiff's claims are against Boston Edison Company dba Nstar Electric, not the individual Thomas J. May.
3. The Defendant, Thomas J. May, does not now, nor has he ever had any business dealings or contracts with the Plaintiff.
4. Boston Edison Company dba Nstar Electric is a utility company headquartered in Westwood, Massachusetts. The Plaintiff is a customer of the electric company. The Plaintiff has failed to pay Boston Edison Company dba Nstar Electric for his usage of electricity. The Plaintiff's service may not be turned off due to his age pursuant to the Massachusetts Utility Regulations.
5. Boston Edison Company dba Nstar Electric sued the Plaintiff, Randolph Green in Roxbury District Court in January, 2004, Docket number 04CV62. The case is still pending. The Plaintiff in that suit filed an answer as a straight denial. He failed to file a counterclaim or any affirmative defenses. The Plaintiff, Randolph Green has not complied with two separate orders of the Court to file answers to Boston Edison Company dba Nstar Electric's discovery requests.

6. The Plaintiff, Randolph Green filed an identical case to this one in Brookline District Court, docket number 04CV52. In his complaint, he alleged the same claims as he does here. That complaint was dismissed after hearing on a Motion to Dismiss.
7. The Plaintiff, at or near the same time, file this current case.
8. The Defendant has provided the Plaintiff, Randolph Green with a billing statement each and every month for years. The Plaintiff has not paid for his consumption of electric, and currently owes over \$8,000.00 on his bill.
9. The Defendant has not conducted any misleading or fraudulent activity in it's case to collect the Plaintiff's debt.
10. I have incurred costs of \$1,000.00 on behalf of my client in defending of this action to date.

Signed under the pains and penalties of perjury.

1-15-05
Date



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